

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KARI VANDERWIELE,

Plaintiff,

v.

LOUIS JAMES MURPHY, III, GARY
LEASURE, MARK MARTIN'S J-MAR
EXPRESS, INC., CAROLYN BLAKE and
ROBERT THOMPSON,

Defendants.

CIVIL ACTION

No. 05-5237

MEMORANDUM

ROBERT F. KELLY, Sr. J.

OCTOBER 11, 2005

This is a personal injury action arising from an automobile accident in Pine Creek, Pennsylvania on October 26, 2003. Jurisdiction is predicated solely upon diversity of citizenship. *See* 28 U.S.C. § 1332 (“[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between – (1) citizens of different States”). Examination of the Complaint reveals that diversity jurisdiction is lacking and, therefore, I will *sua sponte* dismiss the Complaint.

On September 27, 2005, I dismissed Plaintiff Kari Vanderwiele’s complaint based upon lack of diversity jurisdiction. See Civil Action No. 05-5085. Specifically, I found that there was not complete diversity between Pennsylvania resident Plaintiff Kari Vanderwiele and Defendants Carolyn Blake and Robert Thompson who also reside in Pennsylvania. I also noted that diversity jurisdiction was additionally lacking due to Plaintiff Kari Vanderwiele’s failure to

specifically allege that the amount in controversy exceeded the \$75,000 jurisdictional threshold set forth in 28 U.S.C. § 1332(a) (“[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$ 75,000. . .”).

One day after the dismissal, on September 28, 2005, Plaintiff Kari Vanderwiele commenced a new action by filing another complaint. See Civil Action No. 05-5145. The complaint was nearly identical to the previously dismissed complaint. It included the same cause of action and was asserted against the same Defendants. Likewise, this Court’s subject matter jurisdiction was premised upon diversity jurisdiction. The only noticeable difference in the complaint was the addition of the contention that the amount in controversy exceeded the \$75,000 jurisdictional threshold. The complaint satisfactorily alleged the jurisdictional threshold set forth in 28 U.S.C. § 1332(a); however, there was still a lack of diversity of citizenship between Pennsylvania residents, Plaintiff Kari Vanderwiele and Defendants Carolyn Blake and Robert Thompson. On October 3, 2005, I *sua sponte* dismissed the action for lack of subject matter jurisdiction because there was still a lack of diversity of citizenship.

On October 5, 2005, Plaintiff Kari Vanderwiele commenced the instant action by filing another Complaint. The instant Complaint is virtually identical to the two previously dismissed complaints. The only difference in the instant Complaint is the addition of the contention that the amount in controversy exceeds \$100,000. Notably, the instant Complaint still fails to show the existence of the requisite diversity of citizenship. Identical to the previously dismissed complaints, the instant Complaint alleges the following: Plaintiff Kari Vanderwiele resides in Coatesville, Pennsylvania (Compl. ¶ 1); Defendant Carolyn Blake resides in Danville, Pennsylvania (Id. ¶ 5); and Defendant Robert Thompson resides in Farrell, Pennsylvania (Id. ¶

6). Since Plaintiff Kari Vanderwiele and Defendants Carolyn Blake and Robert Thompson are all residents of Pennsylvania, diversity jurisdiction is still plainly lacking. See Employers Ins. of Wausau v. Crown Cork and Seal Co., 905 F.2d 42, 45 (3d Cir. 1990) (“In order to sustain jurisdiction based on diversity of the parties, there must exist an actual, substantial controversy between citizens of different states, all of whom on one side of the controversy are citizens of different states from all parties on the other side.”). Consequently, I *sua sponte* dismiss the instant Complaint for lack of subject matter jurisdiction. See Walls v. Ahmed, 832 F. Supp. 940, 941 (E.D. Pa. 1993) (“Lack of subject matter jurisdiction is a ground for dismissal and may be raised at any time by the parties or by the court *sua sponte*”).

An appropriate Order follows.

KARI VANDERWIELE,

Plaintiff,

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AND NOW, this 11th day of October, 2005, it is hereby **ORDERED** that Plaintiff

BY THE COURT:

Robert F. Kelly, Sr. J.